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*Counsel for Plaintiff James Attridge and All Others
Similarly Situated*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

JAMES ATTRIDGE, on behalf of themselves
and all others similarly situated,

Plaintiff,

v.

GOOGLE LLC; ALPHABET INC.; XXVI
HOLDINGS INC.,

Defendants.

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Case No.: 3:25-cv-02775-RFL

**[PROPOSED] ORDER AS MODIFIED
GRANTING PLAINTIFF'S MOTION FOR
APPOINTMENT OF INTERIM CLASS
COUNSEL**

Judge: Hon. Rita F. Lin

Before the Court is Plaintiff's Motion to Appoint Interim Class Counsel. Having considered Plaintiff's Motion to Appoint Interim Class Counsel, the supporting Declarations of David Boies and Lingel H. Winters, the accompanying Memorandum of Points and Authorities, and all other papers and arguments submitted, and good cause appearing, the Court hereby finds and ORDERS as follows:

In selecting interim class counsel, district courts typically look to the mandatory criteria of Rule 23(g)(1)(A) governing the appointment of class counsel. *See, e.g., Parkinson v. Hyundai Motor Am.*, No. CV06-34AHS (MLGX), 2006 WL 2289801, at *2 (C.D. Cal. Aug. 7, 2006). The Rule 23(g)(1)(A) criteria that a court "must consider" when appointing class counsel are:

- (i) the work counsel has done in identifying or investigating potential claims in the action;
- (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (iii) counsel's knowledge of the applicable law; and
- (iv) the resources that counsel will commit to representing the class.

Id.; *see also* Fed. R. Civ. P. 23(g)(1)(A). None of the four foregoing factors are individually determinative. Instead, such factors provide a framework to analyze and determine whether counsel seeking appointment can fairly and adequately represent the class. Further, Rule 23(g)(1)(B) provides that a court may, in its discretion, "consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(g)(1)(B).

When presented with a single application for appointment as class counsel (as is the case here), Rule 23(g)(2) provides that a court may appoint the co-lead class counsel upon a finding that such counsel are "adequate under Rule 23(g)(1) and (4)." Fed. R. Civ. P. 23(g)(2).

A common means of selecting class counsel is by "private ordering." Manual for Complex Litigation (Fourth) § 21.272 (2004). That is, "[t]he lawyers agree who should be lead class counsel and the court approves the selection after a review to ensure that the counsel selected is adequate to represent the class interests." *Id.* Efforts of plaintiffs' counsel to coordinate their activities among themselves "should be encouraged." *Id.* § 10.22.

1 The Court hereby finds that appointment of co-lead interim class counsel is appropriate under
2 Federal Rule of Civil Procedure 23(g)(3). Early appointment of co-lead interim class counsel will ensure
3 the efficient management of this complex antitrust class action, clarify responsibility for pre-certification
4 proceedings, and protect the interests of the proposed class. The Court finds that both Boies Schiller
5 Flexner LLP (“BSF”), with David Boies as lead attorney, and Lingel H. Winters, possess qualifications,
6 experience, and resources to serve as Interim Co-Lead Class Counsel.

7 The declarations submitted with this motion detail how BSF and Mr. Winters have already made
8 substantial commitment to this case. Mr. Winters filed the initial complaint and his declaration describes
9 how he led all initial litigation steps, including pre-complaint investigation and early strategic planning.
10 The declaration from Mr. Boies details how BSF has familiarized itself with the facts and legal issues and
11 how BSF is collaborating with Mr. Winters on a second amended complaint and preparing to respond to
12 anticipated motions and discovery. Both BSF and Mr. Winters have committed to devoting the resources
13 necessary to prosecute this action vigorously, efficiently, and expeditiously.

14 The Court further finds that the appointment of BSF (with David Boies as lead attorney) and Mr.
15 Winters as Interim Co-Lead Class Counsel is in the best interests of the putative class. Their combined
16 experience, expertise, and resources will ensure that the class is represented by counsel with a proven
17 track record of success in analogous antitrust class actions and the ability to effectively coordinate and
18 lead this litigation.

19 The Court acknowledges that an objection to this motion has been filed by a group of plaintiffs in
20 *Arcell v. Google*, 2022-cv-02499-RFL, a related case before the Court. (Dkt. No. 45.) The objectors state
21 that Mr. Winters previously represented the *Arcell* plaintiffs in the related action, that during that time he
22 had “access to confidential information” about the *Arcell* plaintiffs, and that “the appointment of Lingel
23 Winters and David Boies is a direct conflict of interest with their case.” (*Id.*) However, the objectors do
24 not identify any specific confidential information Mr. Winters possesses, nor do they explain how their
25 interests are materially adverse to the interests of the putative class in this case. *See* Cal. R. Pro. Conduct
26 1.9 (a), (c). Therefore, the objectors have not raised any basis to find that Mr. Winters or BSF will not
27 adequately serve as interim class counsel.


Pursuant to Federal Rule of Civil Procedure 23(g), the Court appoints the following as Interim Co-Lead Class Counsel to act on behalf of the putative class in this action: Boies Schiller Flexner LLP, with David Boies as lead attorney, and Lingel H. Winters.

Interim Co-Lead Class Counsel shall have the authority and responsibility for the conduct of all pre-certification proceedings on behalf of the putative class, including but not limited to:

- Coordinating and overseeing the prosecution of this action;
- Preparing and filing any amended complaints;
- Opposing any motions directed at the pleadings;
- Propounding and responding to discovery;
- Engaging and consulting with experts;
- Briefing and arguing all motions;
- Conducting settlement negotiations;
- Communicating with defense counsel and the Court on behalf of the putative class;
- Performing such other duties as are necessary to advance the interests of the putative class.

IT IS SO ORDERED.

Dated: August 30, 2025


HON. RITA F. LIN
United States District Judge